

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

AMERICAN LECITHIN COMPANY,
LIPOID GmbH, LIPOID LLC, and
PHOSPHOLIPID GmbH,

Plaintiffs,

Case No. 12-cv-00929-VSB-KNF

-against-

**THIRD-PARTY DEFENDANT'S
LOCAL RULE 56.1 STATEMENT IN
SUPPORT OF MOTION FOR
PARTIAL SUMMARY JUDGMENT**

CARSTEN MATTHIAS REBMANN,
Defendant, Counterclaim
and Third-Party
Plaintiff,

-against-

HERBERT REBMANN, LIPOID STIFTUNG,
LIPOID BETEILIGUNGS GmbH,
LIPOID VERWALTUNGS AG,
LIPOID GRUNDSTUECKS GMBH, and
PHOSPHOLIPID FORSCHUNGSZENTRUM e.V.,

Third-Party Defendants.

-----X

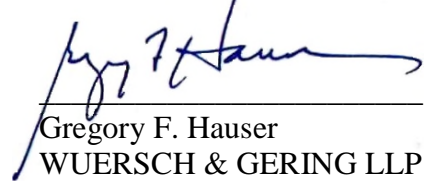
Third-Party Defendant Herbert Rebmann contends that the following are the material facts in this action as to which there is no genuine issue to be tried, as established by the pleadings, the discovery record in this action, and the accompanying affidavits and declarations and exhibits thereto.

1. Defendant Carsten Matthias Rebmann resides in the City and State of New York.
(Second Amended Answer, Counterclaims and Third-Party Claims/Dkt. 187, hereinafter "2d Am. Ans.", ¶ 7; Answer to First Counterclaim and Ninth and Eleventh Third-Party Claims/Dkt. 261, hereinafter "Reply", ¶ 71.)

2. Third-Party Defendant Herbert Rebmann (hereinafter “Dr. Rebmann”) resides in Germany. (2d Am. Ans. ¶ 76; Reply ¶ 76.)
3. Defendant has asserted his Ninth Third-Party Claim against Dr. Rebmann for conversion of Defendant’s ownership shares of former Third-Party Defendant Lipoid Grundstücks GmbH (hereinafter “Lipoid G”). (2d Am. Ans. ¶¶ 257-63.)
4. Defendant is a former owner of ten percent of Lipoid G. (2d Am. Ans. ¶¶ 82-88; Reply ¶¶ 82-88 & 258-63.)
5. Defendant has alleged in his Ninth Third-Party Claim that Dr. Rebmann took Defendant’s shares in Lipoid G, which Dr. Rebmann has denied. (2d Am. Ans. ¶¶ 257-63; Reply ¶¶ 257-63.)
6. In fact, Defendant has (a) admitted in his pleading that the taking of his shares happened by shareholder meeting resolutions, (b) admitted in affidavits filed in this action that it was the company Lipoid G that took his shares by action of the shareholders at a shareholders’ meeting on January 9, 2103, and (c) provided a translated copy of the minutes of that meeting showing that the company mandated he forfeit his shares and itself took possession of the shares; in addition, the Defendant has stated by affidavit that it is Lipoid G that owes him compensation for the shares, not Dr. Rebmann. (2d Am. Ans. ¶¶ 149-50; Defendant’s Affidavit Oct. 18, 2013, ¶ 15 & Ex. D/Dkt. 74 & 78; Defendant’s Affidavit October 9, 2015 ¶ 48/Dkt. 206.)
7. Third-Party Defendant Herbert Rebmann confirms that it was Lipoid G, not he, that took Defendant’s ownership interest by vote of its shareholders, that Defendant’s shares were not transferred to him, and that he never received any interest in, possession of, or custody or control of those shares. (Rebmann Decl. ¶¶ 5-8.)

Dated: March 1, 2019

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Greg F. Hauser", is written over a horizontal line.

Gregory F. Hauser
WUERSCH & GERING LLP

100 Wall Street, 10th Floor
New York, New York 10005

Tel: (212) 509-5050

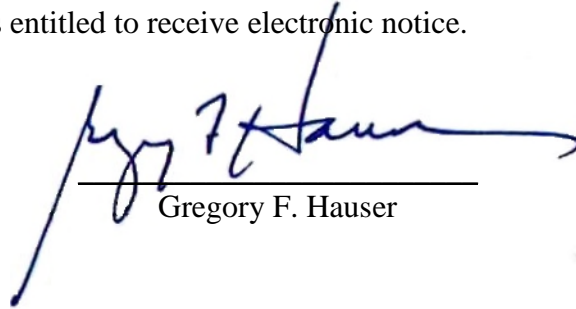
Fax: (212) 509-9559

*Attorneys for Plaintiffs and for
Third-Party Defendant Herbert
Rebmann*

To: Samuel Goldman, Esq.
Samuel Goldman & Associates
200 Park Avenue, Suite 1700
New York, NY 10017
Tel: (212) 725-1400
Fax: (212) 725-0805
Attorneys for Defendant and Third-Party Plaintiff

CERTIFICATE OF SERVICE

I am an attorney at Wuersch & Gering LLP, counsel for the Third-Party Defendants, in the above-captioned proceeding. I hereby certify that on March 1, 2019, I caused the foregoing **Local Rule 56.1 Statement in Support of Partial Summary Judgment** to be served electronically via the United States District Court, Southern District of New York Court's ECF system upon those parties entitled to receive electronic notice.



Gregory F. Hauser